

STATE PROPERTIES COMMITTEE MEETING

TUESDAY, DECEMBER 9, 2008

The meeting of the State Properties Committee was called to order at 10:06 a.m. by Chairman Kevin M. Flynn. Other members present were Richard Woolley representing the Rhode Island Department of Attorney General; Robert Griffith representing the Rhode Island Department of Administration; John A. Pagliarini, Jr., and Robert W. Kay, Public Members. Others in attendance were Anthony Paolantonio from the Rhode Island House of Representatives; Robert C. Bromley from the Rhode Island Senate Fiscal Office; Director W. Michael Sullivan, Mary E. Kay, John Faltus, Ken Ayars and Terri Bisson from the Rhode Island Department of Environmental Management; Paul Carcieri, Marc Malkasian, Annette Jacques, John Glynn and David Coppotelli from the Rhode Island Department of Transportation; Michael D. Mitchell and John Ryan from the Rhode Island Department of Administration; Jose Berto from the Rhode Island Department of Children, Youths and Families; Richard Schartner from Schartner Farms; John C. Revens and Kevin M. Hayes from the law firm of Revens, Revens & St. Pierre; J. William J. Harsch, Esquire; Jonathan Reiner from the Town of North Kingstown; Thomas Moses from the law firm of Moses & Alfonso, Ltd.

Chairman Flynn noted for the record that the State Properties Committee did have a quorum present.

A motion was made to approve the regular minutes of the State Properties Committee meeting held on Friday, November 14, 2008, as amended, by Mr. Pagliarini

and seconded by Mr. Griffith. Said motion passed four (4) votes "Aye" and one (1)

"Abstention."

Four (4) Votes "Aye"

Mr. Pagliarini
Mr. Griffith
Mr. Woolley
Chairman Flynn

One (1) "Abstention"

Mr. Kay

A motion was made to approve the Executive Session minutes of the State Properties Committee meeting held on Friday, November 14, 2008, by Mr. Pagliarini and seconded by Mr. Griffith. Said motion passed four (4) votes "Aye" and one (1)

"Abstention."

Four (4) Votes "Aye"

Mr. Pagliarini
Mr. Griffith
Mr. Woolley
Chairman Flynn

One (1) "Abstention"

Mr. Kay

A motion was made to approve the regular minutes of the State Properties Committee meeting held on Tuesday, November 25, 2008, as amended, by Mr. Pagliarini and seconded by Mr. Woolley.

Passed Unanimously

A motion was made to approve the Executive Session minutes of the State Properties Committee meeting held on Tuesday, November 25, 2008, by Mr. Griffith and seconded by Mr. Woolley.

Passed Unanimously

Chairman Flynn noted for the record that Items F and N are deferred to a future meeting of the State Properties Committee.

A motion was made to defer agenda items A, B and C until later in the meeting by Mr. Kay and seconded by Mr. Woolley.

Passed Unanimously

ITEM D -Department of Environmental Management -A request was made for approval of and signatures on a License Agreement with Authorization to Serve Alcoholic Beverages by and between the Department of Environmental Management and the Fort Adams Trust in cooperation with the Ancient Order of Hibernians to hold a Celtic Invitational Bagpipe and Drum Competition at Fort Adams State Park on Saturday, May 2, 2009, with a rain date of Sunday, May 3, 2009. Mr. Faltus indicated that the Fort Adams Trust is seeking early approval of the subject License Agreement for purposes of planning and scheduling the event. Mr. Faltus presented a Certificate of Insurance to the Committee for its review. Mr. Faltus explained that the Fort Adams Trust's current insurance policy expires on May 1, 2009; however, Fort Adams Trust has consistently provided renewed Certificates of Insurance to the Department in a timely manner. Chairman Flynn asked if this competition has previously been held at Fort Adams State Park. Mr. Faltus indicated that the Fort Adams Trust has held similar events in the past.

A motion was made to approve by Mr. Woolley and seconded by Mr. Pagliarini.

Passed Unanimously

ITEM E-Department of Administration -A request was made for approval of and signatures on a Third Amendment to Purchase and Sale Contract relative to the sale of 72.5± acres of land located behind the Oliver Stedman Government Center in Wakefield. Mr. Mitchell explained that the title to the subject parcel of land is held by the Refunding Bond Authority. Mr. Mitchell indicated that he met with the title attorney and the attorney for the Refunding Bond Authority in order to resolve some outstanding title issues. It is Mr. Mitchell's understanding that Attorney Norman Benoit, counsel for Refunding Bond Authority, is now satisfied with the title. Mr. Mitchell indicated the Department of Administration is awaiting a deed and other final transfer documents from the Refunding Bonding Authority in order to consummate the sale of the subject property. Therefore, Mr. Mitchell indicated he is seeking approval of and signatures on a Third Amendment to Purchase and Sale Contract to extend said Contract until January 31, 2009. As this is the third request for an extension of the Purchase and Sale Contract, Chairman Flynn asked if the Department is reasonably certain the necessary documents will be prepared by the end of January 2009. Mr. Mitchell indicated that he is reasonably certain that all necessary documents will be prepared and ready for execution by the end of January 2009. A motion was made to approve by Mr. Woolley and seconded by Mr. Kay.

Passed Unanimously

ITEM F-Department of Administration -A request for final approval a Renewal of Lease Agreement by and between the Department of Administration and Growing Children of Providence for the premises located at One Capitol Hill in the City of Providence. *This item is deferred to a future meeting of the State Properties Committee at the request of the Department of Administration.*

ITEMS G, H and I -Department of Children, Youth & Families -A request was made for permission to occupy office space on a month-to-month basis until the end of the 2009 fiscal year at the following locations: 249 Roosevelt Avenue in the City of Pawtucket; 530 Wood Street in the Town of Bristol; and 650 Ten Rod Road in the Town of North Kingstown. Mr. Pagliarini stated that he would like the Committee to have an opportunity to review the Lease Agreements prior to entertaining this request. Chairman Flynn suggested that the Committee allow the Department of Children, Youth & Families (the "Department") to make its presentation. Mr. Ryan explained that each of the three Lease Agreements contain a provision for a ten year option. Mr. Ryan indicated that the Department is not certain it will opt for the ten year option; however a shorter term may be negotiated. Mr. Ryan noted that even a five year option will require the approval of the General Assembly given the length of the term and the aggregate rental amount. Mr. Ryan stated that obviously said approval can not be obtained until the General Assembly reconvenes. Therefore, Mr. Ryan explained that as a practical matter, the Department needs approval on a month-to-month basis in order to pay the rent. Mr. Ryan indicated that the Department would like to maintain its regional offices; however, it needs time to thoroughly investigate its options and how best to move forward. Chairman Flynn recalled that the Department recently sought approval of a month-to-month lease

agreement. Mr. Ryan stated that recently the Lease Agreement for the regional office in Woonsocket was approved by the State Properties Committee on a month to month basis. Chairman Flynn asked Mr. Berto to explain the status of the negotiations relative to the subject Lease Agreements. Mr. Berto explained that in the Lease Agreement for the Bristol office, which consists of 2,540 square feet, has been prepared. However, the Department requested an additional six (6) months to address some unresolved issues concerning certain language contained in the Lease Agreement. Mr. Berto indicated that with regard to the other offices, the Department has commissioned Andolfo Appraisal Associates, Inc. to conduct a study of rental values in these areas in order to assist the Department in maximizing its office space. Mr. Pagliarini asked when these Lease Agreements expire. Mr. Berto indicated that the Lease Agreement for the Pawtucket office expired on April 28, 2008; the North Kingstown Lease Agreement expired in November 2008 and the Bristol Lease Agreement expired on October 6, 2008. Mr. Pagliarini asked why the Department waited seven months to bring the Pawtucket Lease Agreement to the attention of the State Properties Committee. Mr. Berto indicated that he did not have the answer to that question. Mr. Griffith asked if the Department's caseload has increased due to the current socioeconomic conditions in the State of Rhode Island. Mr. Berto indicated that the number of cases has increased. Mr. Griffith asked if the Department believes it will be able negotiate decreased rental fees due the turndown in the real estate market. Mr. Ryan indicated that it is the Department's hope to decrease the rental fees through the negotiations. Mr. Woolley commented that it is apparent the Department needs some breathing room and on that basis, a motion was made to approve

by Mr. Woolley and seconded by Mr. Kay. The motion passed four (4) votes "Aye" to one (1) vote "Nay."

Four (4) Votes "Aye"

Mr. Griffith
Mr. Woolley
Mr. Kay
Chairman Flynn

One vote (1) "Nay"

Mr. Pagliarini

ITEM J -Department of Transportation -A request was made for approval of and signatures on an Agreement to Purchase and Quit Claim Deed by and between the Rhode Island Department of Transportation (the "Department") and Warwick Hotel Associates, IV, LLC (Carpionato Corporation) for the conveyance of 5.58 acres of land, which abuts Routes 5 and 113 in the City of Warwick. Mr. Pagliarini recused himself from voting relative to this item. Mr. Carcieri explained that in November of 2006, the State Properties Committee granted the Department's request for conceptual approval to sell approximately 5.58 acres of excess land located adjacent to the Inn at the Crossings to Warwick Hotel Associates, IV, LLC via a sole source sale. Mr. Carcieri explained that the State Properties Committee imposed two restrictions on said sale; the first restriction prohibits any access to the parcel from either Route 113 or Route 5. The second restriction requires that the parcel be wrapped with a vegetative buffer. Mr. Carcieri indicated that some of the other particulars were that Warwick Hotel Associates, IV, LLC agree to pay the higher of the two appraised values for the subject property. Mr. Carcieri noted that the value of the parcel as a 'stand alone' is \$10.00 per square foot and its value when assembled to the adjacent property owned by Warwick Hotel Associates, IV, LLC

is \$9.50 per square foot. Mr. Carcieri indicated that Warwick Hotel Associates, IV, LLC has agreed to pay the higher purchase price. Mr. Carcieri indicated that the Department of Transportation is now seeking final approval of the Agreement to Purchase; however, there has been some discussion as to whether the Department will seek approval and execution of the Quit Claim Deed at this time. Mr. Carcieri explained that the Department conducted an internal review of the two appraisals to determine whether the appraised values have changed during the intervening two year. It is the opinion of the Department's Appraisal Section that the established values have not changed within the past two years. Mr. Carcieri explained that as the Route 5 and Route 113 was completed in October 2008, the Department chose to hold off on the conveyance of the subject property until the dust settled and it could determine whether there would be a need for this land in the future. Mr. Carcieri indicated that the Department has determined that the subject property is in fact surplus to its needs. Mr. Carcieri also indicated that the size of the parcel protracted the length of time needed to prepare the metes and bounds description and conveyance plat map. Mr. Woolley indicated that he had instructed the Department to revise the Purchase and Sale Contract and the Quit Claim Deed to specifically state that "any future access, if any, to either Route 113 or Route 5 shall be at the absolute discretion of the State of Rhode Island." Mr. Woolley explained that he is very concerned that the present language could be interpreted to mean that the Department of Transportation has an obligation to provide access to either Routes 5 and/or 113 in the future. Mr. Woolley explained that he wants the language to be crystal clear that the Department of Transportation never intends to provide access to Routes 5 and/or 113. Ms. Jacques explained that she did incorporate said language into the

Purchase and Sale Agreement; however, she inadvertently neglected to revise the exhibit. Ms. Jacques indicated that Paragraph 17 of the Purchase and Sale Agreement stipulates that "The Buyer acknowledges the State of Rhode Island has the absolute and sole discretion to authorize or deny access rights." Ms. Jacques indicated that any access to either Route 5 or Route 113 will also require the approval of the State Properties Committee. Ms. Jacques apologized that said language was not included in the exhibit and noted that she would revise the exhibit forthwith. However, with regard to the approval and execution of the Quit Claim Deed, Ms. Jacques explained that as the Purchase and Sale Agreement contains certain preconditions that afford the Buyer the option of terminating this transaction, she recommended that the State Properties Committee defer approval and execution of the Deed until just prior to the scheduled closing. It is Ms. Jacques' opinion that holding a fully executed deed for three months is not a good legal practice. Ms. Jacques stated that she will gladly return to the State Properties Committee for final approval and execution of the Quit Claim Deed once the preconditions are met and a closing is scheduled. Chairman Flynn indicated that the documents provided to the Committee do not reflect the revisions in accordance with Mr. Woolley's instructions. Ms. Rhodes indicated that the revised documents were submitted to the State Properties Committee late yesterday afternoon and were not forwarded to the Committee. Ms. Rhodes provided the Committee with the revised version of the Purchase and Sale Contract. Mr. Woolley agreed that the Quit Claim Deed should not be executed at this time. Mr. Woolley noted that this will give the Department an opportunity to revise Exhibit B and to add "if any" to Paragraph 17 of the Purchase and Sale Contract so that all the documents are consistent. A motion was made to approve

the Purchase and Sale Contract with the understanding that the last paragraph of Exhibit B will be amended to reflect the same language contained in Paragraph 17 of the Purchase and Sale Agreement by Mr. Woolley and seconded by Mr. Griffith. The motion passed four (4) votes "Aye" with one (1) Recusal.

Four (4) Votes "Aye"

Mr. Griffith
Mr. Woolley
Mr. Kay
Chairman Flynn

One (1) Recusal

Mr. Pagliarini

ITEM K- Department of Transportation -A request was made for approval of and signatures on a Sign License Agreement with Smithfield Office Center, LLC for use of 200 square feet of State-owned land on Douglas Pike in the Town of Smithfield. Mr. Coppotelli stated that Smithfield Office Center, LLC wishes to renew its five (5) year revocable Sign License Agreement with the Department of Transportation for the purpose of maintaining its business sign. Mr. Coppotelli indicated that the license fee is \$600 per year and that this particular License Agreement was approved on July 13, 2004. A motion to approve was made by Mr. Pagliarini and seconded by Woolley.

Passed Unanimously

ITEM L- Department of Transportation -A request was made for approval of and signatures on a License Agreement with E's Divine Pet Salon, Inc. for use of 1,065 square feet of State-owned land located on Park Avenue in the City of Cranston. Mr. Coppotelli explained that E's Divine Pet Salon, Inc. wishes to enter into a five (5) year License Agreement with the Department of Transportation to utilize 1,065 square feet of

State-owned land for vehicle parking. Mr. Coppotelli indicated that the license fee is \$600 per year and that this particular License Agreement was initially approved on October 16, 2007, with the previous tenant. A motion to approve was made by Mr. Griffith and seconded by Mr. Woolley.

Passed Unanimously

ITEM M -Department of Transportation -A request was made for approval of and signatures on a Sign License Agreement with The Prout School for use of 200 square feet of State-owned property located at 4640 Tower Hill Road in Wakefield. Mr. Coppotelli explained that The Prout School wishes to renew its five (5) year revocable Sign License Agreement with the Department of Transportation for purposes of maintaining its business sign. The license fee is \$600 per year and said License Agreement was initially approved on November 9, 2004. A motion to approve was made by Mr. Griffith and seconded by Mr. Woolley.

Passed Unanimously

ITEM N -Department of Transportation -A request for approval of and signatures on a Consent to Assignment of License Agreement by and between the Department of Transportation and Commodore Properties, LLC to Omni combined W.E., LLC for the use of 6,000 square feet of land located adjacent to West Exchange Street in the City of Providence. *This item is deferred to a future meeting of the State Properties Committee at the Request of the Department of Transportation.*

ITEM A -Department of Environmental Management -A request was made for approval of and signatures on a Deed to Development Rights over 112 acres of land referred to as Schartner Farm (the "Farm") and Bald Hill Nursery (the "Nursery") in the

Town of North Kingstown ("North Kingstown") and the Town of Exeter ("Exeter") and on an Option to Purchase the development rights to an additional 20 acres of the farm. Director Sullivan explained that the request before the State Properties Committee (the "Committee") has been in the making for many years. Director Sullivan indicated that one of his first memories is a discussion he had in 1994 with the late Lenny Savella, who was one of five brothers. Mr. Savella and his brothers were all partners in the business known as Bald Hill Nursery. Along the way, there have been three (3) separate owners and up to six (6) investors at one time; however, today the Department of Environmental Management ("DEM") is before the Committee with five (5) remaining investors, two municipalities, the Agricultural Land Preservation Commission (the "Commission") and an individual family corporation with an interest in the site. Director Sullivan described the transaction as an innovative, unique and groundbreaking arrangement, due to the number of partners and the structure of the documents. Director Sullivan indicated that all interested parties will be signing the documents by the close of business today (December 9, 2008). Director Sullivan apologized to the Committee for not having submitted signed documents in advance; however, in view of the number of interested parties, it has been, to say the least, extremely challenging. Director Sullivan explained that before the Committee is the concept that protects a phenomenally important piece of property and its current use as a farm. Director Sullivan stated that the property is presently being farmed by the Schartner family. Director Sullivan explained that the property is the "gateway" to what some call "Agricultural Alley", which begins at the intersection of Route 2 and 102. Director Sullivan explained that the property spans through both North Kingstown and Exeter and travels to the head regions of the Queen

River. This property complements many holdings both public and private to the south and contributes to the protection of an exceptionally important groundwater resource. Director Sullivan urged the Committee to embrace, support and finally grant its approval to allow this transaction to move forward. Chairman Flynn asked Director Sullivan and Mr. Woolley if they believe this matter can move forward in the absence of duly executed documents. Director Sullivan stated that in his opinion the matter is ready to move forward; however, he asked legal counsel to DEM, Mary Kay, to give the Committee her legal opinion. Ms. Kay explained that the Commission, which is staffed by DEM personnel, has fully negotiated the two documents that will be signed by the State of Rhode Island. Said documents are the Deed to Development Rights over 112 acres of land and an Option to Purchase an additional 20 acres parcel of land located at the intersection of Routes 2 and 102. Ms. Kay indicated that said documents are in final form and will not be modified in any way. Ms. Kay explained that the funding for this transaction is very unusual in that there is a private contribution of \$3 million dollars from the Southland Corporation; ("Southland"), North Kingstown is contributing \$750,000; and Exeter is contributing \$500,000. Ms. Kay indicated that the aforementioned parties have negotiated a Purchase and Sale Contract with Mr. Schartner to which the State of Rhode Island (the "State") is not a party because the Agricultural Land Preservation Commission's funds are being contributed in the form of grants to the Towns of North Kingstown and Exeter in equal shares. Ms. Kay indicated that the Commission and the State are parties to the Deed to Development Rights and the Option to Purchase only. These documents have been signed by Everett Steward, Chairman of the Commission and by a designee of Southland. It is Ms. Kay's understanding that both

North Kingstown and Exeter are ready to sign said documents as is Mr. Schartner.

Therefore, Ms. Kay indicated that she can represent to the Committee that the State's documents are in final form. Ms. Kay stated that there are other documents, which relate to this transaction to which the State is not a party. Ms. Kay explained that as part of this transaction North Kingstown is in the process of setting up a transfer of development rights program, which hopefully will address the 20 acre parcel and the Option to Purchase. Ms. Kay explained that the State's Deed to Development Rights and its Option to Purchase will be recorded prior to the other deeds or purchase and sale contracts so that the State can be assured it is receiving the covenants and restrictions to which it is entitled as part of the Farm Land Program. Director Sullivan explained that part of the urgency in this matter is the cohesiveness of the partnership investing in this acquisition. Director Sullivan stated that Southland has been at the table for the entire decade of negotiations; however, its contribution is off the table as of December 15, 2008.

Therefore, the parties are attempting to finalize this transaction with all funds intact. Mr. Woolley asked for a brief explanation regarding what benefit the State receives from the Option to Purchase and the Deed to Development Rights. Director Sullivan explained during negotiation regarding the 20 acre parcel of land located at the intersection of Routes 102 and 2 (10 acres in Exeter and 10 acres in North Kingstown), the issue of how to segregate and accumulate a total value arose. Director Sullivan indicated that the Option exists because the 20 acres is managed in two different ways. North Kingstown has advanced the concept of development rights transfer, which would allow the effective functional preservation of that land, because the right to build would be transferred to

other sites within the community. The Option to Purchase exists, because while there is a value structured on that parcel, if the Transfer of Development Rights Ordinance (the "TDR") does not evolve in Exeter, the Option will become the means by which the property will be protected in the future. Mr. Woolley asked if it would be protected because the State would have the "option" to acquire it. Director Sullivan indicated that was exactly right; the Commission would have the "option" to purchase the 20 acres parcel if necessary. Ms. Kay noted that Exeter, North Kingstown and Southland are also being granted options. Mr. Woolley asked if the State's Option to Purchase supersedes the other options. Director Sullivan indicated that is correct. Mr. Pagliarini indicated that as a member of the State Properties Committee, he makes every attempt to complete due diligence with regard to all requests brought before the Committee; especially a request of this magnitude. Mr. Pagliarini stated that he planned to continue this matter due to the fact that the appraisal was handed to him today. Mr. Pagliarini stated that in the past he has informed the Department that he wants to review the appraisals of property prior to their coming before the Committee. Mr. Pagliarini indicated that the appraisal is useless to him at this time. Director Sullivan stated that he certainly appreciated Mr. Pagliarini's position concerning reviewing appraisals; however, the property has been appraised at least four separate times over the past decade. Director Sullivan explained that said appraisal has been continually updated to reflect market conditions and structured deal conditions. Director Sullivan apologized to Mr. Pagliarini for the late delivery of the appraisal report, but indicated that the Committee can be assured that the appraisal reflects any market changes, that it has been the subject a very close and continuous departmental review and that the State's investment is very well guarded. Mr. Pagliarini

asked that Mr. Reiner join the panel and asked Mr. Revens who he represents in this transaction. Mr. Revens stated that he is legal counsel to Richard Schartner with regard to this matter in the Towns of Exeter and North Kingstown only. Mr. Pagliarini asked if these properties are held in Richard Schartner's name or in the name of an entity. Mr. Revens stated that the properties are held in Richard Schartner's name only. Mr. Pagliarini asked if the Town of North Kingstown approved the Transfer of Development Rights Ordinance as of this date. Mr. Reiner explained that the Town of North Kingstown has approved the TDR Ordinance; however, the subdivision regulations portion of that ordinance is scheduled for a public hearing on Tuesday, December 16, 2008. Mr. Pagliarini noted that the Option to Purchase has an automatic trigger which states "in the event that the Town of North Kingstown develops a Transfer of Development Rights Ordinance, the Granter shall transfer, as soon thereafter as TOR Ordinance is approved and effective, the conservation and development rights to the 10 acres of land in the Town of North Kingstown to the Town." Mr. Pagliarini stated that said language makes the State's Option to Purchase moot. Mr. Pagliarini stated that his interpretation of said language is that the Granter must, under this agreement, automatically transfer development rights to the Town of North Kingstown. Therefore, he asked what the State has an option to purchase if the Granter is required to transfer the development rights to the Town of North Kingstown. Director Sullivan explained that said language applies to 10 of the 20 acres; however, the short straw is that the Town of Exeter has not developed a TDR Ordinance. Mr. Pagliarini stated that he understood that North Kingstown has been more progressive and has a TDR Ordinance in place; however, he questioned why the State is executing an Option to Purchase the property located in

North Kingstown; when it seems clear that the State will only have an option to purchase the property located in Exeter. Mr. Woolley disagreed and indicated that the State's option does not solely rely on the enactment of the TDR Ordinance; there are many steps above and beyond that. Mr. Pagliarini asked Mr. Reiner if the 10 acre parcel is classified as a sending zone. Mr. Reiner stated that is correct. Mr. Pagliarini asked if North Kingstown has appropriated a receiving district on Post Road. Mr. Reiner explained that the Town of North Kingstown does have a receiving district; however, sewers are not completely available through the entire corridor and that is one of the stipulations of the receiving district's contract. Director Sullivan interjected that, at least from his philosophy, it is better to have a redundancy of catches and the Option would serve as that redundancy if something were to fail in either North Kingstown or Exeter. Director Sullivan stated that the State would have the option to preserve the entire parcel, which has been the collective goal of the parties involved. Mr. Pagliarini read from the Option to Purchase, Section D Appraisal: "Any appraisal prepared in regard to the exercise of the option to purchase the development rights to one or both of the retained parcels, or portion, or portions thereof by the Grantee, shall be based upon the uses permitted by the zoning of the retained parcels at the time of execution of the agreement, regardless of the zoning in effect at the time such fair market value appraisal is conducted." Mr. Pagliarini asked Mr. Reiner what the present zoning is on the 10 acre portion in North Kingstown. Mr. Reiner indicated that it is zoned General Business. Mr. Pagliarini stated that the Committee certainly cannot speak for the Town Council and certainly has no way of knowing whether this parcel will be re-zoned in two years. Mr. Revens asked the Chair if he would allow him to speak, as he believed he could clarify Mr. Pagliarini's question.

Mr. Revens indicated that the Option to Purchase Agreement that Mr. Pagliarini is reading from is the option that is in the Purchase and Sale Agreement. That option runs to each Town and to Southland. Mr. Revens stated that the Purchase and Sale Agreement also contains language regarding the TDR Ordinance. Mr. Revens explained that at the time this Agreement was being negotiated, the TDR Ordinance was merely a concept and the terms and conditions contained in the Appraisal paragraph were intended to create every possible opportunity for the private investor, who is contributing almost sixty (60%) percent of the funding for this transaction, and the Towns to acquire these rights. However, Mr. Revens explained that the parties did not want the Towns or the private investor to have to expend any additional money to acquire the development rights. Mr. Revens explained that a cost free acquisition of the development rights could be accomplished via the TDR Ordinance, which has been adopted, but as Mr. Reiner indicated, it cannot be implemented because there are no sewers in North Kingstown with the exception of Quonset Point. However, the Town plans to work with Quonset Development Corporation to enable sewers to be extended into North Kingstown, specifically the Post Road corridor. The hope is that when said expansion is completed, the Post Road area could be a receiving area for the subject development rights. In the event the Quonset Point sewer expansion plan is not successful, the terms and conditions contained in the Appraisal paragraph ensure that the Towns and the private party have the right to acquire the development rights. Mr. Revens noted that the private investor in this transaction is the largest land owner in the Town of Exeter and more than anyone wishes to preserve the subject property as farm land. Mr. Revens explained that not one of the aforementioned terms or condition is contained in the State's Option to Purchase. The

only condition in the State's Option to Purchase is that it must follow the normal State appraisal process. It does not contain language concerning the zoning change; those conditions only relate to the Towns of Exeter, North Kingstown and the private party. Mr. Revens stated that in his opinion there is not one chance in five thousand that the State's Option will ever be exercised because of all the provisions contained in the Purchase and Sale Agreement giving the other parties an opportunity to acquire the development rights through the TDR Ordinance. Mr. Revens added that if the TDR Ordinance route fails, the parties can acquire the rights through their own private negotiations, through their Option to Purchase or through their right of first refusal. However, in the unlikely event that the State did exercise its Option to Purchase, the present zoning of the property would have nothing to do with said Option. The State's Option would be based upon the fair market value of the property as determined by the Department, in accordance with State statutes and under all the current and future State regulations relating to the appraisal process. Mr. Pagliarini asked if the appraisal process would be conducted as of the effective date of the State's Option to Purchase. Mr. Revens stated that is correct. Mr. Pagliarini indicated that the effective date is today. Mr. Revens stated that if the State exercised its Option to Purchase, the appraisal would be done on the effective date of the acquisition. Director Sullivan noted that one of the projects identified in the DEM's Wastewater Management Revolving Fund is the extension of sewers. One of the highest priorities in terms of the DEM's concern about developing a basic infrastructure in North Kingstown is the receiving area sewers. Mr. Pagliarini asked if any corrections have been made to the Deed to Development Rights since the Committee received its copy on Friday. Ms. Kay indicated that only one

correction was made. Ms. Kay directed Mr. Pagliarini's attention to the bottom of Page 2 and explained that the consideration not only refers to the State's contribution of 1\$ million dollars, but also refers to the local communities' contribution of \$250,000.

Mr. Pagliarini noted that on Page 3, the final paragraph of the Deed to Development Rights states: "The proportional shares of the State of Rhode Island, Agricultural Land Preservation Commission, the Town of North Kingstown, the Town of Exeter and Southland Communications, Inc. are 19.05%, 14.29%, 65.71% and .95% respectively".

Mr. Pagliarini stated that said shares are incorrectly listed. Director Sullivan explained that the reason the shares appear to be listed incorrectly is because Southland yields its financial interest to the Town of Exeter. Mr. Pagliarini questioned why the Deed lists four parties rather than three, if Southland is yielding its financial interest to the Town of Exeter. Director Sullivan indicated that the .95% represents the residual. Mr. Revens further explained that said language was incorporated into the Deed in the event there is a future condemnation of the property. Mr. Revens explained that if there were a taking of the property, the concern was how the money paid by the taker would be disbursed. Mr. Revens indicated that the parties were attempting to extinguish development rights; however, there is a legal question as to whether the develop rights of the sovereign can be extinguished in order to condemn. Mr. Revens explained that he is unsure whether you can or not, but if you cannot and the sovereign condemned the property and took portion of the land and paid a million dollars, the question becomes how that \$1 million payment is distributed. Does the owner of the land receive it or is the money shared by the individuals who contributed the 5.25 million and the owner. Mr. Revens explained that Southland's contribution is being funneled through the Town of Exeter in order to protect

its interest. Mr. Revens stated that the percentages have been agreed to by the parties and they precisely reflect the proportionate share of the dollars each party is contributing with the exception of Southland's contribution. Southland's contribution will go to the Town of Exeter and be disbursed back to Southland in accordance with a separate agreement between the Town of Exeter and Southland. Ms. Kay indicated that the State of Rhode Island would receive twenty percent of the total purchase price. Mr. Pagliarini noted that the Deed provides for the reservation of seven residential lots and asked why seven house lots are being reserved. Mr. Reiner explained that the house lots are reserved strictly for the members of the family and/or for employees of the farm. Mr. Reiner indicated that a law was enacted last year, which allows one house lot per every 20 acres land of an active agricultural operation. Director Sullivan stated that regardless of how automated agriculture may become, there will always be a need to provide farm labor housing and that provision speaks to that need. Mr. Revens added that seven is the maximum number of houses allowed and noted that the Deed contains a perpetual restriction prohibiting the transfer of ownership of said houses. Therefore, the owner of the farm must retain ownership of the houses. The houses cannot ever be separated from the farm either by ownership, occupancy or use. Mr. Revens stated that the driving force behind this transaction from Mr. Schartner's perspective is the agricultural conservation model, the essence of which is an economically viable farm; not only for the present owner, but for all future owners as well. Mr. Revens stated that the hope and desire of every party involved in this transaction is that the property will continue as a viable farm well into the future and that that the State Properties Committee will find that to be an appropriate goal. Mr. Revens explained that as he was legal counsel to the late Leonard Sevela for

many years and now represents Mr. Schartner. Mr. Revens stated that he is intimately familiar with their vision concerning this property. Mr. Revens explained that some years ago, Mr. Schartner leveraged anything he owned to purchase this property at fair market value in highly competitive market. Mr. Schartner has been responsible for paying the interest on said purchase each and every year since that time. Mr. Revens indicated that his client has struggled mightily against the developing of this property . Mr. Revens stated that his client could have sold ten or twenty acres of land at the intersection long ago. The zoning has been in place as has the zoning for the Bald Hill Nursery parcel. Mr. Revens explained that Mr. Schartner could have easily grabbed a few million dollars from a private party and avoided ever having to come before the State Properties Committee. However, selling that corner parcel would have allowed a developer to build some type of commercial development, which would certainly have spoiled Mr. Schartner's vision and the concept of a natural gateway to a beautiful 140 acre farm and a magnificent agricultural corridor. Mr. Revens stating that his client put his money and future on the table to purchase this land and certainly does not want to develop this property commercially. However, he would like to develop the land in ways that other farms have not done, for other farm related uses in order to keep the farm viable. Mr. Revens explained that growing pumpkins and/or Christmas trees will not sustain a farm. The farmer has to have a hook, something that attracts the public to enjoy the farm experience and spend money as part of that process so that the farm continues to be a viable natural resource. Mr. Revens indicated that with help from the Towns of Exeter and North Kingstown, Southland, the Agricultural Land Preservation Commission and hopefully from the State Properties Committee, Mr. Schartner's concept and vision

will be realized. Mr. Revens stated that subject to the approval of the State Properties Committee, the private portion of this transaction will close on Monday, December 15, 2008. Mr. Revens averred that no one has done more to preserve agriculture, in terms of investing their own money, for the State of Rhode Island than Mr. Schartner. Chairman Flynn asked Mr. Woolley if he is comfortable with the state of readiness of the documents. Mr. Woolley indicated that he is comfortable with the documents before the Committee. Mr. Pagliarini stated that going forward the Department is required to provide the State Properties Committee with copies of all appraisals upon the submission of any and all requests. Mr. Pagliarini stated that he has great concerns and many issues with the appraisal of the subject property. Director Sullivan represented to Mr. Pagliarini that the public's interest relative to this transaction has been phenomenally well protected. Mr. Pagliarini reminded Director Sullivan that he was appointed to serve as a public voting member of the State Properties Committee to protect public interest and noted that his vote today will reflect that commitment. Ms. Kay stated that appraised values of the property for the record as follows: An appraisal conducted by Andolfo Appraisal Associates determined a total fee value of \$10,500,000. The value of the Development Rights is \$5,560,000 as of December 6, 2008. The State of Rhode Island's total investment toward said development rights \$1,000,000. The Town of North Kingstown is contributing \$750,000 and the Town of Exeter is contributing \$500,000 toward the purchase of the Development Rights. Chairman Flynn noted that the Action Request Form submitted to the Committee reflects an appraised value of \$6,000,000. Director Sullivan indicated that value was based upon a prior appraisal; the current appraised value is 5,560,000 and the purchase price for the Development Rights is

\$5,250,000. Mr. Pagliarini asked whether there is any requirement that any of the seven farming units be affordable. Director Sullivan joked that by definition of agricultural housing, it had better be affordable. Mr. Pagliarini indicated that the issue of affordable units is neither clear cut nor amusing, because the Deed stipulates that the residential units be occupied by family members and/or agricultural workers. Chairman Flynn stated that his interpretation of said language is that it allows family members to reside on the farm as opposed to residing at a separate location. It also allows farm workers to live on the farm in a single family home environment consistent with all applicable DEM regulations as well as local ordinances with regard to housing development. Mr. Kay stated that he is concerned about the Schartners' interest in this transaction and how it will benefit the Schartner Family. Mr. Revens indicated that all of the proceeds received by the Schartner Family as a result of this transaction will be applied to farm credit. A motion to approve was made subject to obtaining the appropriate signatures on any and all documents associated with this transaction as soon as possible by Mr. Griffith and seconded by Mr. Woolley. The motion passed four (4) votes "Aye" to one vote "Nay."

Four (4) Votes "Aye"

Mr. Griffith
Mr. Woolley
Mr. Kay
Chairman Flynn

One (1) "Nay"

Mr. Pagliarini

ITEM B -Department of Environmental Management -A request was made for approval of and signatures on a Termination of Lease with Point Judith Electronics for Lot 225 in the Port of Galilee and approval of and signatures on an Indenture of Lease by

and between the Department of Environmental Management and the Rhode Island Engine Co., for Lot 225. Ms. Kay introduced Terri Bisson of the Division of Planning and Development. Ms. Bisson will be assisting the Department with lease agreements for the Port of Galilee, Fort Adams State Park and with other leased residential properties throughout the State. Ms. Kay explained that the Department is seeking to terminate the Lease Agreement by and between Point Judith Electronics for the premises known as Lot 225 in the Port of Galilee. Ms. Kay explained that Point Judith Electronics' has gone out of business and no longer needs to lease the premises. However, Rhode Island Engine Company wants to enter into a Lease Agreement with the Department for use of Lot 225 in order to expand its business. The term of the Lease Agreement runs until 2012, with an option to renew until 2017. Said term is consistent with the lease agreements for other properties leased by Rhode Island Engine Company Lease Agreements in the Port of Galilee. The rental fee is based upon the appraisal, which was conducted over the past year at the directive of the State Properties Committee. The appraised value is .70¢ per square foot for a total of \$2,189 per year. A motion was made to approve the Termination of Lease with Point Judith Electronics and for approval to enter into a Lease Agreement with Rhode Island Engine Company for Lot 225 in the Port of Galilee by Mr. Woolley and seconded by Mr. Griffith.

Passed Unanimously

ITEM C -Department of Environmental Management -A request was made for approval of and signatures on a Renewal of Lease and on the First Amendment to Indenture of Lease by and between the Department of Environmental Management and Global Investments for Lots 203B, 204C and Dock E in the Port of Galilee. Ms. Kay

explained that as part of the appraisal process in the Port of Galilee, the Department conducted a survey of the Port and became aware that two State-owned lots were being encroached upon by adjacent businesses. The Department forwarded a cease and desist letter to the business owner terminating use of the property. The business owner in turn forwarded a proposal to the Department seeking permission to enter into an agreement whereby they would pay fair market value for the use of the property for vehicle parking. Therefore, the Department is seeking approval to renew the Indenture of Lease between the Department of Environmental Management and Global Investment, Inc. and approval and execution of the First Amendment to the Indenture of Lease to incorporate the property consisting of approximately 6 to 7 parking spaces. A motion was made to approve by Mr. Griffith and seconded by Mr. Woolley.

Passed Unanimously

There being no further business to come before the State Properties Committee, the meeting was adjourned at 11:29 a.m. A motion was made to adjourn by Mr. Griffith and seconded by Mr. Woolley.

Passed Unanimously

Holly H. Rhodes, Executive Secretary